

110TH CONGRESS
1ST SESSION

H. R. 1818

To amend the Internal Revenue Code of 1986 to provide for the expensing of broadband Internet access expenditures, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2007

Ms. MATSUI (for herself, Mr. ENGLISH of Pennsylvania, Mr. THOMPSON of California, Mr. KUHL of New York, Mr. BOUCHER, Mr. MCINTYRE, Mr. CROWLEY, Mr. GILLMOR, Mr. KIND, Mr. SCHIFF, and Mrs. CUBIN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide for the expensing of broadband Internet access expenditures, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Broadband Deploy-
5 ment Acceleration Act of 2007”.

1 **SEC. 2. EXPENSING OF BROADBAND INTERNET ACCESS EX-**
 2 **PENDITURES.**

3 (a) IN GENERAL.—Part VI of subchapter B of chap-
 4 ter 1 of the Internal Revenue Code of 1986 (relating to
 5 itemized deductions for individuals and corporations) is
 6 amended by inserting after section 190 the following new
 7 section:

8 **“SEC. 191. BROADBAND EXPENDITURES.**

9 “(a) TREATMENT OF EXPENDITURES.—

10 “(1) IN GENERAL.—A taxpayer may elect to
 11 treat any qualified broadband expenditure which is
 12 paid or incurred by the taxpayer as an expense
 13 which is not chargeable to capital account. Any ex-
 14 penditure which is so treated shall be allowed as a
 15 deduction.

16 “(2) ELECTION.—An election under paragraph
 17 (1) shall be made at such time and in such manner
 18 as the Secretary may prescribe by regulation.

19 “(b) QUALIFIED BROADBAND EXPENDITURES.—For
 20 purposes of this section—

21 “(1) IN GENERAL.—The term ‘qualified
 22 broadband expenditure’ means, with respect to any
 23 taxable year, any direct or indirect costs incurred
 24 after the date of the enactment of this section and
 25 before the date which is 4 years after such date and
 26 properly taken into account with respect to—

1 “(A) the purchase or installation of quali-
2 fied equipment (including any upgrades there-
3 to), and

4 “(B) the connection of such qualified
5 equipment to any qualified subscriber.

6 “(2) CERTAIN SATELLITE EXPENDITURES EX-
7 CLUDED.—Such term shall not include any costs in-
8 curred with respect to the launching of any satellite
9 equipment.

10 “(3) LEASED EQUIPMENT.—Such term shall in-
11 clude so much of the purchase price paid by the les-
12 sor of qualified equipment subject to a lease de-
13 scribed in subsection (c)(2)(B) as is attributable to
14 expenditures incurred by the lessee which would oth-
15 erwise be described in paragraph (1).

16 “(4) LIMITATION WITH REGARD TO CURRENT
17 GENERATION BROADBAND SERVICES.—Only 50 per-
18 cent of the amounts taken into account under para-
19 graph (1) with respect to qualified equipment
20 through which current generation broadband serv-
21 ices are provided shall be treated as qualified
22 broadband expenditures.

23 “(c) WHEN EXPENDITURES TAKEN INTO AC-
24 COUNT.—For purposes of this section—

1 “(1) IN GENERAL.—Qualified broadband ex-
2 penditures with respect to qualified equipment shall
3 be taken into account with respect to the first tax-
4 able year in which—

5 “(A) current generation broadband services
6 are provided through such equipment to quali-
7 fied subscribers, or

8 “(B) next generation broadband services
9 are provided through such equipment to quali-
10 fied subscribers.

11 “(2) LIMITATION.—

12 “(A) IN GENERAL.—Qualified expenditures
13 shall be taken into account under paragraph (1)
14 only with respect to qualified equipment—

15 “(i) the original use of which com-
16 mences with the taxpayer, and

17 “(ii) which is placed in service, after
18 the date of the enactment of this section.

19 “(B) SALE-LEASEBACKS.—For purposes of
20 subparagraph (A), if property—

21 “(i) is originally placed in service
22 after the date of the enactment of this sec-
23 tion by any person, and

1 “(ii) sold and leased back by such per-
2 son within 3 months after the date such
3 property was originally placed in service,
4 such property shall be treated as originally
5 placed in service not earlier than the date on
6 which such property is used under the leaseback
7 referred to in clause (ii).

8 “(d) SPECIAL ALLOCATION RULES.—

9 “(1) CURRENT GENERATION BROADBAND SERV-
10 ICES.—For purposes of determining the amount of
11 qualified broadband expenditures under subsection
12 (a)(1) with respect to qualified equipment through
13 which current generation broadband services are
14 provided, if the qualified equipment is capable of
15 serving both qualified subscribers and other sub-
16 scribers, the qualified broadband expenditures shall
17 be multiplied by a fraction—

18 “(A) the numerator of which is the sum of
19 the number of potential qualified subscribers
20 within the rural areas and the underserved
21 areas which the equipment is capable of serving
22 with current generation broadband services, and

23 “(B) the denominator of which is the total
24 potential subscriber population of the area

1 which the equipment is capable of serving with
2 current generation broadband services.

3 “(2) NEXT GENERATION BROADBAND SERV-
4 ICES.—For purposes of determining the amount of
5 qualified broadband expenditures under subsection
6 (a)(1) with respect to qualified equipment through
7 which next generation broadband services are pro-
8 vided, if the qualified equipment is capable of serv-
9 ing both qualified subscribers and other subscribers,
10 the qualified expenditures shall be multiplied by a
11 fraction—

12 “(A) the numerator of which is the sum
13 of—

14 “(i) the number of potential qualified
15 subscribers within the rural areas and un-
16 derserved areas, plus

17 “(ii) the number of potential qualified
18 subscribers within the area consisting only
19 of residential subscribers not described in
20 clause (i),

21 which the equipment is capable of serving with
22 next generation broadband services, and

23 “(B) the denominator of which is the total
24 potential subscriber population of the area

1 which the equipment is capable of serving with
2 next generation broadband services.

3 “(e) DEFINITIONS.—For purposes of this section—

4 “(1) ANTENNA.—The term ‘antenna’ means
5 any device used to transmit or receive signals
6 through the electromagnetic spectrum, including sat-
7 ellite equipment.

8 “(2) CABLE OPERATOR.—The term ‘cable oper-
9 ator’ has the meaning given such term by section
10 602(5) of the Communications Act of 1934 (47
11 U.S.C. 522(5)).

12 “(3) COMMERCIAL MOBILE SERVICE CAR-
13 RIER.—The term ‘commercial mobile service carrier’
14 means any person authorized to provide commercial
15 mobile radio service as defined in section 20.3 of
16 title 47, Code of Federal Regulations.

17 “(4) CURRENT GENERATION BROADBAND SERV-
18 ICE.—The term ‘current generation broadband serv-
19 ice’ means the transmission of signals at a rate of
20 at least 5,000,000 bits per second to the subscriber
21 and at least 1,000,000 bits per second from the sub-
22 scriber.

23 “(5) MULTIPLEXING OR DEMULTIPLEXING.—
24 The term ‘multiplexing’ means the transmission of 2
25 or more signals over a single channel, and the term

1 ‘demultiplexing’ means the separation of 2 or more
2 signals previously combined by compatible multi-
3 plexing equipment.

4 “(6) NEXT GENERATION BROADBAND SERV-
5 ICE.—The term ‘next generation broadband service’
6 means the transmission of signals at a rate of at
7 least 50,000,000 bits per second to the subscriber
8 and at least 10,000,000 bits per second from the
9 subscriber.

10 “(7) NONRESIDENTIAL SUBSCRIBER.—The
11 term ‘nonresidential subscriber’ means any person
12 who purchases broadband services which are deliv-
13 ered to the permanent place of business of such per-
14 son.

15 “(8) OPEN VIDEO SYSTEM OPERATOR.—The
16 term ‘open video system operator’ means any person
17 authorized to provide service under section 653 of
18 the Communications Act of 1934 (47 U.S.C. 573).

19 “(9) OTHER WIRELESS CARRIER.—The term
20 ‘other wireless carrier’ means any person (other than
21 a telecommunications carrier, commercial mobile
22 service carrier, cable operator, open video system op-
23 erator, or satellite carrier) providing current genera-
24 tion broadband services or next generation

1 broadband service to subscribers through the radio
2 transmission of energy.

3 “(10) PACKET SWITCHING.—The term ‘packet
4 switching’ means controlling or routing the path of
5 any digitized transmission signal which is assembled
6 into packets or cells.

7 “(11) PROVIDER.—The term ‘provider’ means,
8 with respect to any qualified equipment—

9 “(A) a cable operator,

10 “(B) a commercial mobile service carrier,

11 “(C) an open video system operator,

12 “(D) a satellite carrier,

13 “(E) a telecommunications carrier, or

14 “(F) any other wireless carrier,

15 providing current generation broadband services or
16 next generation broadband services to subscribers
17 through such qualified equipment.

18 “(12) PROVISION OF SERVICES.—A provider
19 shall be treated as providing services to 1 or more
20 subscribers if—

21 “(A) such a subscriber has been passed by
22 the provider’s equipment and can be connected
23 to such equipment for a standard connection
24 fee,

1 “(B) the provider is physically able to de-
2 liver current generation broadband services or
3 next generation broadband services, as applica-
4 ble, to such a subscriber without making more
5 than an insignificant investment with respect to
6 such subscriber,

7 “(C) the provider has made reasonable ef-
8 forts to make such subscribers aware of the
9 availability of such services,

10 “(D) such services have been purchased by
11 1 or more such subscribers, and

12 “(E) such services are made available to
13 such subscribers at average prices comparable
14 to those at which the provider makes available
15 similar services in any areas in which the pro-
16 vider makes available such services.

17 “(13) QUALIFIED EQUIPMENT.—

18 “(A) IN GENERAL.—The term ‘qualified
19 equipment’ means equipment which provides
20 current generation broadband services or next
21 generation broadband services—

22 “(i) at least a majority of the time
23 during periods of maximum demand to
24 each subscriber who is utilizing such serv-
25 ices, and

1 “(ii) in a manner substantially the
2 same as such services are provided by the
3 provider to subscribers through equipment
4 with respect to which no deduction is al-
5 lowed under subsection (a)(1).

6 “(B) ONLY CERTAIN INVESTMENT TAKEN
7 INTO ACCOUNT.—Except as provided in sub-
8 paragraph (C) or (D), equipment shall be taken
9 into account under subparagraph (A) only to
10 the extent it—

11 “(i) extends from the last point of
12 switching to the outside of the unit, build-
13 ing, dwelling, or office owned or leased by
14 a subscriber in the case of a telecommuni-
15 cations carrier,

16 “(ii) extends from the customer side
17 of the mobile telephone switching office to
18 a transmission/receive antenna (including
19 such antenna) owned or leased by a sub-
20 scriber in the case of a commercial mobile
21 service carrier,

22 “(iii) extends from the customer side
23 of the headend to the outside of the unit,
24 building, dwelling, or office owned or
25 leased by a subscriber in the case of a

1 cable operator or open video system oper-
2 ator, or

3 “(iv) extends from a transmission/re-
4 ceive antenna (including such antenna)
5 which transmits and receives signals to or
6 from multiple subscribers, to a trans-
7 mission/receive antenna (including such
8 antenna) on the outside of the unit, build-
9 ing, dwelling, or office owned or leased by
10 a subscriber in the case of a satellite car-
11 rier or other wireless carrier, unless such
12 other wireless carrier is also a tele-
13 communications carrier.

14 “(C) PACKET SWITCHING EQUIPMENT.—

15 Packet switching equipment, regardless of loca-
16 tion, shall be taken into account under subpara-
17 graph (A) only if it is deployed in connection
18 with equipment described in subparagraph (B)
19 and is uniquely designed to perform the func-
20 tion of packet switching for current generation
21 broadband services or next generation
22 broadband services, but only if such packet
23 switching is the last in a series of such func-
24 tions performed in the transmission of a signal
25 to a subscriber or the first in a series of such

1 functions performed in the transmission of a
2 signal from a subscriber.

3 “(D) MULTIPLEXING AND
4 DEMULTIPLEXING EQUIPMENT.—Multiplexing
5 and demultiplexing equipment shall be taken
6 into account under subparagraph (A) only to
7 the extent it is deployed in connection with
8 equipment described in subparagraph (B) and
9 is uniquely designed to perform the function of
10 multiplexing and demultiplexing packets or cells
11 of data and making associated application
12 adaptations, but only if such multiplexing or
13 demultiplexing equipment is located between
14 packet switching equipment described in sub-
15 paragraph (C) and the subscriber’s premises.

16 “(14) QUALIFIED SUBSCRIBER.—The term
17 ‘qualified subscriber’ means—

18 “(A) with respect to the provision of cur-
19 rent generation broadband services—

20 “(i) any nonresidential subscriber
21 maintaining a permanent place of business
22 in a rural area or underserved area, or

23 “(ii) any residential subscriber resid-
24 ing in a dwelling located in a rural area or

1 underserved area which is not a saturated
2 market, and

3 “(B) with respect to the provision of next
4 generation broadband services—

5 “(i) any nonresidential subscriber
6 maintaining a permanent place of business
7 in a rural area or underserved area, or

8 “(ii) any residential subscriber.

9 “(15) RESIDENTIAL SUBSCRIBER.—The term
10 ‘residential subscriber’ means any individual who
11 purchases broadband services which are delivered to
12 such individual’s dwelling.

13 “(16) RURAL AREA.—The term ‘rural area’
14 means any census tract which—

15 “(A) is not within 10 miles of any incor-
16 porated or census designated place containing
17 more than 25,000 people, and

18 “(B) is not within a county or county
19 equivalent which has an overall population den-
20 sity of more than 500 people per square mile of
21 land.

22 “(17) RURAL SUBSCRIBER.—The term ‘rural
23 subscriber’ means any residential subscriber residing
24 in a dwelling located in a rural area or nonresiden-

1 tial subscriber maintaining a permanent place of
2 business located in a rural area.

3 “(18) SATELLITE CARRIER.—The term ‘sat-
4 ellite carrier’ means any person using the facilities
5 of a satellite or satellite service licensed by the Fed-
6 eral Communications Commission and operating in
7 the Fixed-Satellite Service under part 25 of title 47
8 of the Code of Federal Regulations or the Direct
9 Broadcast Satellite Service under part 100 of title
10 47 of such Code to establish and operate a channel
11 of communications for distribution of signals, and
12 owning or leasing a capacity or service on a satellite
13 in order to provide such point-to-multipoint distribu-
14 tion.

15 “(19) SATURATED MARKET.—The term ‘satu-
16 rated market’ means any census tract in which, as
17 of the date of the enactment of this section—

18 “(A) current generation broadband services
19 have been provided by a single provider to 85
20 percent or more of the total number of potential
21 residential subscribers residing in dwellings lo-
22 cated within such census tract, and

23 “(B) such services can be utilized—

24 “(i) at least a majority of the time
25 during periods of maximum demand by

1 each such subscriber who is utilizing such
2 services, and

3 “(ii) in a manner substantially the
4 same as such services are provided by the
5 provider to subscribers through equipment
6 with respect to which no deduction is al-
7 lowed under subsection (a)(1).

8 “(20) SUBSCRIBER.—The term ‘subscriber’
9 means any person who purchases current generation
10 broadband services or next generation broadband
11 services.

12 “(21) TELECOMMUNICATIONS CARRIER.—The
13 term ‘telecommunications carrier’ has the meaning
14 given such term by section 3(44) of the Communica-
15 tions Act of 1934 (47 U.S.C. 153(44)), but—

16 “(A) includes all members of an affiliated
17 group of which a telecommunications carrier is
18 a member, and

19 “(B) does not include a commercial mobile
20 service carrier.

21 “(22) TOTAL POTENTIAL SUBSCRIBER POPU-
22 LATION.—The term ‘total potential subscriber popu-
23 lation’ means, with respect to any area and based on
24 the most recent census data, the total number of po-
25 tential residential subscribers residing in dwellings

1 located in such area and potential nonresidential
2 subscribers maintaining permanent places of busi-
3 ness located in such area.

4 “(23) UNDERSERVED AREA.—The term ‘under-
5 served area’ means—

6 “(A) any census tract which is located in—

7 “(i) an empowerment zone or enter-
8 prise community designated under section
9 1391, or

10 “(ii) the District of Columbia Enter-
11 prise Zone established under section 1400,
12 or

13 “(B) any census tract—

14 “(i) the poverty level of which is at
15 least 30 percent (based on the most recent
16 census data), and

17 “(ii) the median family income of
18 which does not exceed—

19 “(I) in the case of a census tract
20 located in a metropolitan statistical
21 area, 70 percent of the greater of the
22 metropolitan area median family in-
23 come or the statewide median family
24 income, and

1 “(II) in the case of a census tract
2 located in a nonmetropolitan statis-
3 tical area, 70 percent of the non-
4 metropolitan statewide median family
5 income.

6 “(24) UNDERSERVED SUBSCRIBER.—The term
7 ‘underserved subscriber’ means any residential sub-
8 scriber residing in a dwelling located in an under-
9 served area or nonresidential subscriber maintaining
10 a permanent place of business located in an under-
11 served area.

12 “(f) SPECIAL RULES.—

13 “(1) PROPERTY USED OUTSIDE THE UNITED
14 STATES, ETC., NOT QUALIFIED.—No expenditures
15 shall be taken into account under subsection (a)(1)
16 with respect to the portion of the cost of any prop-
17 erty referred to in section 50(b) or with respect to
18 the portion of the cost of any property specified in
19 an election under section 179.

20 “(2) BASIS REDUCTION.—

21 “(A) IN GENERAL.—For purposes of this
22 title, the basis of any property shall be reduced
23 by the portion of the cost of such property
24 taken into account under subsection (a)(1).

1 “(B) ORDINARY INCOME RECAPTURE.—

2 For purposes of section 1245, the amount of
 3 the deduction allowable under subsection (a)(1)
 4 with respect to any property which is of a char-
 5 acter subject to the allowance for depreciation
 6 shall be treated as a deduction allowed for de-
 7 preciation under section 167.

8 “(3) COORDINATION WITH SECTION 38.—No
 9 credit shall be allowed under section 38 with respect
 10 to any amount for which a deduction is allowed
 11 under subsection (a)(1).”.

12 (b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE
 13 TELEPHONE COMPANIES.—Section 512(b) of the Internal
 14 Revenue Code of 1986 (relating to modifications) is
 15 amended by adding at the end the following new para-
 16 graph:

17 “(20) SPECIAL RULE FOR MUTUAL OR COOPER-
 18 ATIVE TELEPHONE COMPANIES.—A mutual or coop-
 19 erative telephone company which for the taxable year
 20 satisfies the requirements of section 501(c)(12)(A)
 21 may elect to reduce its unrelated business taxable in-
 22 come for such year, if any, by an amount that does
 23 not exceed the qualified broadband expenditures
 24 which would be taken into account under section
 25 191 for such year by such company if such company

1 was not exempt from taxation. Any amount which is
2 allowed as a deduction under this paragraph shall
3 not be allowed as a deduction under section 191 and
4 the basis of any property to which this paragraph
5 applies shall be reduced under section
6 1016(a)(38).”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) Section 263(a)(1) of the Internal Revenue
9 Code of 1986 (relating to capital expenditures) is
10 amended by striking “or” at the end of subpara-
11 graph (J), by striking the period at the end of sub-
12 paragraph (K) and inserting “, or”, and by adding
13 at the end the following new subparagraph:

14 “(L) expenditures for which a deduction is
15 allowed under section 191.”.

16 (2) Section 1016(a) of such Code is amended
17 by striking “and” at the end of paragraph (36), by
18 striking the period at the end of paragraph (37) and
19 inserting “, and”, and by adding at the end the fol-
20 lowing new paragraph:

21 “(38) to the extent provided in section
22 191(f)(2).”.

23 (3) The table of sections for part VI of sub-
24 chapter A of chapter 1 of such Code is amended by

1 inserting after the item relating to section 190 the
2 following new item:

“Sec. 191. Broadband expenditures.”.

3 (d) DESIGNATION OF CENSUS TRACTS.—

4 (1) IN GENERAL.—The Secretary of the Treas-
5 ury shall, not later than 90 days after the date of
6 the enactment of this Act, designate and publish
7 those census tracts meeting the criteria described in
8 paragraphs (16), (22), and (23) of section 191(e) of
9 the Internal Revenue Code of 1986 (as added by
10 this section). In making such designations, the Sec-
11 retary of the Treasury shall consult with such other
12 departments and agencies as the Secretary deter-
13 mines appropriate.

14 (2) SATURATED MARKET.—

15 (A) IN GENERAL.—For purposes of desig-
16 nating and publishing those census tracts meet-
17 ing the criteria described in subsection (e)(19)
18 of such section 191—

19 (i) the Secretary of the Treasury shall
20 prescribe not later than 30 days after the
21 date of the enactment of this Act the form
22 upon which any provider which takes the
23 position that it meets such criteria with re-
24 spect to any census tract shall submit a
25 list of such census tracts (and any other

1 information required by the Secretary) not
2 later than 60 days after the date of the
3 publication of such form, and

4 (ii) the Secretary of the Treasury
5 shall publish an aggregate list of such cen-
6 sus tracts and the applicable providers not
7 later than 30 days after the last date such
8 submissions are allowed under clause (i).

9 (B) NO SUBSEQUENT LISTS REQUIRED.—

10 The Secretary of the Treasury shall not be re-
11 quired to publish any list of census tracts meet-
12 ing such criteria subsequent to the list de-
13 scribed in subparagraph (A)(ii).

14 (e) OTHER REGULATORY MATTERS.—

15 (1) PROHIBITION.—No Federal or State agency
16 or instrumentality shall adopt regulations or rate-
17 making procedures that would have the effect of
18 eliminating or reducing any deduction or portion
19 thereof allowed under section 191 of the Internal
20 Revenue Code of 1986 (as added by this section) or
21 otherwise subverting the purpose of this section.

22 (2) TREASURY REGULATORY AUTHORITY.—It is
23 the intent of Congress in providing the election to
24 deduct qualified broadband expenditures under sec-
25 tion 191 of the Internal Revenue Code of 1986 (as

1 added by this section) to provide incentives for the
2 purchase, installation, and connection of equipment
3 and facilities offering expanded broadband access to
4 the Internet for users in certain low income and
5 rural areas of the United States, as well as to resi-
6 dential users nationwide, in a manner that main-
7 tains competitive neutrality among the various class-
8 es of providers of broadband services. Accordingly,
9 the Secretary of the Treasury shall prescribe such
10 regulations as may be necessary or appropriate to
11 carry out the purposes of section 191 of such Code,
12 including—

13 (A) regulations to determine how and when
14 a taxpayer that incurs qualified broadband ex-
15 penditures satisfies the requirements of section
16 191 of such Code to provide broadband serv-
17 ices, and

18 (B) regulations describing the information,
19 records, and data taxpayers are required to pro-
20 vide the Secretary to substantiate compliance
21 with the requirements of section 191 of such
22 Code.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to expenditures incurred after the
3 date of the enactment of this Act.

